

September 5, 2007
Workshop - Planning

Workshop began at 1:25 p.m.

Present: Bill Muse, Mayor; Wendell Roundy, Randy Ripplinger, Gladys LeFevre, Pete Schaus, Councilmembers; Judi Davis, Clerk; Donna Jean Wilson, Zoning Administrator; Peg Smith, PC Secretary; Curtis Oberhansly, Consultant; Loch Wade, Don Montoya, Appeals Authority; Bruce Parker, Planner; Sergio Femenias.

Bruce gave an overview of State law regarding planning. (Joe Parker, Serena Stockmann came.)

Bruce recommended that we keep our plan simple; just have a basic plan. We should let it work and not keep changing it.

The ordinances should implement the General Plan. The General Plan is implemented by the Subdivision Ordinance, Zoning Ordinance, capital facilities, and budget.

Chapter 10-9a of the Utah Code is the enabling authority for land use administration and includes definitions and notice requirements, authorizes and gives responsibilities of Boards, Commissions, Council, etc., provides for procedural clarity, and gives decision making standards. When our ordinance refers to “this chapter,” it is referring to Chapter 10-9a.

Land Use Ordinance preparation and adoption follows in this order:

- Plan adoption/amendment application submitted
- Staff review and recommendation
- Planning Commission public hearing
- Planning Commission review and recommendation
- Legislative body review and action (public hearing not required)

If the meeting is not a public hearing, don't accept public comment. Be consistent. We are required to give three business days' notice to the applicant before making a final decision (10-9a-202). The applicant can waive his right (at the meeting or in writing) to have been notified. There must be a record of his waiver, either written or in the minutes.

There was discussion on interpretation of definitions and terms and on variances, which are modifications rather than complete waivers of requirements. State law no longer provides for Boards of Adjustments, so many are being removed and decisions made by

staff, Town Councils, or Planning Commissions. In Boulder, we renamed our Board of Adjustment and now call it the Appeals Authority, but we need to change that, as different bodies and people can be the appeals authority for different decisions, just as different people and bodies can be land use authorities.

In order to satisfy due process, we must record findings (what was considered, what lead you to the decision, what facts were presented) give an opportunity for appeal, have accurate record keeping, and provide for enforcement.

It is critical to understand that the applicant is entitled to approval if the application is complete and complies with the statute in effect on the date it is submitted. Be sure to communicate in writing with the applicant. Any requirement or condition that we impose should be clearly expressed in the ordinances.

Appeals were discussed. Appeals of Town Council decisions which create or amend laws go directly to District Court. The members of the legislative body are elected and they make the laws. The Town Council is the appeals authority for decisions made by the Planning Commission, and the Planning Commission is the appeals authority for decisions made by the Zoning Administrator. The Board of Adjustment is the appeals authority for variances and some other things. The appeals authority on the decision for a final subdivision could be the Board of Adjustment. This ordinance needs to rename the body called the Appeals Authority and call it the Board of Adjustment.

The new LUDMA gave some latitude to the local governments to tailor procedures to meet their needs. On any land use application, we should decide who is the Land Use Authority and who is the Appeals Authority.

Building permits were discussed. The Zoning Administrator should give final project approval and the County Building Inspector should be designated Boulder Town's Building Official. The Clerk needs to check with the County Building Inspector to see if he needs to receive a copy of every project approval, whether it is a project that needs to be inspected or not.

Subdivision requirements are also found in Chapter 10-9a of Utah Code. It regulates the division of land. The subdivider is required to put in basic services.

The Planning Commission recommends. The Town Council can: 1) adopt without change, 2) adopt with minor changes, 3) make complete changes, 4) send it back for reconsideration then get a new recommendation.

LUDMA requires that a subdivision application include: 1) the name of the subdivision,

2) boundaries of all parcels and intended use, as well as any streets or other public uses intended by the creation of the plat, 3) every existing right of way or easement identified, 4) lot reference as recorded in the County Records office, and 5) certification of the surveyor that (s)he is licensed in Utah. We can collect in fees whatever costs the town incurs. The requirements for an application must be expressed.

A road that complies with our requirements is dedicated to the Town. Do we want it to be? We need to define public streets, private streets, and private drives. Before making a road private, we should look ahead. If left private, there needs to be a mechanism for maintenance. We need provisions for emergency access. All roads are made public by default. We need separate standards for public and private roads. We need a fire authority to make recommendations on all plats. Pete will be the fire authority. We should have a recommendation from the fire authority in the file from now on.

Judi will send the sign ordinance to Bruce so it can be included in the Zoning Ordinance.

Reasons for Clustering:

1. By keeping infrastructure in a small place, the costs are reduced.
2. It preserves open space, thereby improving the quality of the community.

The Town can make its own definition. The minimum lot size can be flexible. Do we want an open space requirement? Do we want lot dimension requirements? What about setbacks if the lots are small? Do we want to offer density incentives? Septic systems may be a problem if the lots are very small.

What happens to ensure the maintenance of open space? Who owns and pays for the maintenance on open space?

We would have to have deed restrictions on the open space lot to prevent future development. If the time comes that things change so drastically that open agricultural space is no longer viable, the owner could petition the Town to allow deed restrictions to be removed.

Where would clustering be allowed? We would need an overlay in order to restrict locations.

Zoning map - we should leave it alone for now. Separate map changes from the LUDMA update.

The workshop ended at 3:50 p.m.